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VIA ECF

The Honorable John G. Koeltl
United States District Judge
for the Southern District of New York
Courtroom 14A
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Yipit LLC d/b/a Yipitdata v. Emmett, et al.
Case No. 24-cv-7854 (JGK)

Dear Judge Koeltl:

We represent Defendant Alexander Pinsky in the above-referenced action. We write to request that the Court amend the caption in this action to remove Mr. Pinsky's name from the caption. Your Honor may recall that I raised this issue in the January 28, 2025 telephone conference with the Court, noting that a fully-executed settlement agreement between Mr. Pinsky and Plaintiff was imminent. Your Honor responded that it was "not uncommon" to strike names from a caption.

Plaintiff and Mr. Pinsky have now executed a settlement agreement which includes a judgment presently before Your Honor dismissing Mr. Pinsky as a defendant.

As set forth in *Cirba v. VMware*, 2022 U.S. Dist. LEXIS 196939, 2022 WL 16527230 (No. 19-742 D. Del. Oct. 26, 2022) the appropriate legal standard is as follows:

'the caption of an action is only the handle to identify it' and that 'the caption is chiefly for the court's administrative convenience.' *See Hoemke*, 2020 WL 5229194, at *1 ; *see also Eberhard v. Old Republic Nat'l Title Ins. Co.*, No. 11-834, 2013 WL 12293449, at *5 (N.D. Ohio Sept. 13, 2013); *Gramm v. Deere & Co.*, No. 14-575, 2021 WL 8321873, at *1 (N.D. Ind. Nov. 15, 2021). Indeed, 'it is well established that, in the context of federal court captions, the caption itself is normally not determinative of the identity of the parties or of the pleader's statement of claim.' *France v.*

The Honorable Victor Marrero

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Touro Coll., No. 14-4613, 2016 WL 1105400, *5 (E.D.N.Y. Feb. 16, 2016), *report and recommendation adopted sub nom. Ueth France v. Touro Coll.*, 2016 WL 1117459 (E.D.N.Y. Mar. 21, 2016) (internal citations omitted); *see also* 5 C. Wright & A. Miller, Federal Practice and Procedure § 1321 (4th ed. 2021).

Cirba at *5. “While updating the case caption is typically a ‘ministerial’ task, *see Paleteria La Michoacana*, 2016 WL 10839543 at *5, the decision ultimately remains within the sound discretion of the Court based on considerations of clarity, efficiency, and avoiding confusion.” *Hoemke*, 2020 WL 5229194, at *1. *Id.* at *7.

Indeed, Courts in this District and the Eastern District have amended case captions to strike defendants no longer in an action. *See, e.g., Ham v. Lenovo (United States)*, 664 F.Supp. 3d 562, 568 n.2 and 584 (S.D.N.Y. March 28, 2023) (Court, apparently *sua sponte*, directed the Clerk of the Court to change the caption to remove dismissed defendant); *Winward Bora LLC v. Weiss*, 717 F.Supp. 3d 247 (E.D.N.Y. 2024) at 253 (Court directed the Clerk of the Court to amend the caption to reflect the dismissal of two defendants).

There can be no prejudice to any of the remaining parties if Mr. Pinsky’s name is removed from the caption. Nor can there be any confusion.

Respectfully submitted,

RASCO KLOCK PEREZ & NIETO, LLC

By: 
Blaine Bortnick

cc: All Counsel of Record (via ECF)